

On April 4, 2008, the Court conducted a status conference in this multidistrict litigation ("MDL") proceeding. After considering the materials submitted by the parties at the conference and good cause appearing, the Court hereby establishes the following pretrial procedures.

PRACTICE AND PROCEDURE ORDER UPON TRANSFER PURSUANT TO § 1407(a) (REVISED)

21 1. This order shall govern the practice and procedure in
22 those actions transferred to this Court by the Judicial Panel on
23 Multidistrict Litigation (MDL Panel) pursuant to its order of
24 February 15, 2008, as well as all related actions originally filed
25 in this Court or transferred or removed to this Court. This order
26 shall also govern the practice and procedure in any tag-along
27 actions transferred to this Court by the MDL Panel pursuant to
28 Rule 7.4 of the Rules of Procedure of the MDL Panel subsequent to

1 the filing of the final transfer order by the Clerk of this Court
2 and any related actions subsequently filed, transferred or removed
3 to this Court.

4 2. The actions described in paragraph 1 of this Order are
5 consolidated for pretrial purposes.

6 **ESTABLISHMENT OF MASTER DOCKET AND FILE**

7 3. The files of all direct purchaser actions and indirect
8 purchaser actions shall be maintained in the master file, Case No.
9 C-07-5944 SC MDL No. 1917. Every pleading filed in direct
10 purchaser actions and indirect purchaser actions shall bear the
11 above caption. When a pleading or paper is intended to be
12 applicable to all actions, the words "All Actions" shall appear
13 immediately after the words "This Document Relates to:" in the
14 caption above. When a pleading or paper is intended to be
15 applicable only to all direct purchaser actions, the words "All
16 Direct Purchaser Actions" shall appear in the caption. When a
17 pleading or paper is intended to be applicable only to all
18 indirect purchaser actions, the words "All Indirect Purchaser
19 Actions" shall appear in the caption.

20 4. All pleadings and submissions in these actions shall be
21 e-filed both in the master docket and in the individual case
22 docket(s) of any individual case(s) to which the submission
23 pertains. All submissions filed in these actions shall bear the
24 identification "Case No. C-07-5944 SC MDL No. 1917," and when such
25 a submission relates to all of these actions, following "Case No.
26 C-07-5944 SC MDL No. 1917," shall be the notation "ALL CASES." If
27 a submission does not relate to all of these actions, the docket
28

1 number of the individual action or actions assigned by the Clerk
2 of the Court shall follow "Case No. C-07-5944 SC MDL No. 1917."
3 The chambers copy of each document e-filed in these cases must
4 clearly indicate the docket number assigned by the electronic case
5 filing system to each such document.

6 **APPEARANCES**

7 5. Counsel who have not yet entered an appearance shall
8 electronically file a Notice of Appearance in the master docket
9 and in the individual case docket(s) of any individual case(s).
10 Counsel who appeared in a transferor court prior to their case
11 being transferred to this Court need not enter an additional
12 appearance before this Court.

13 6. Attorneys admitted to practice and in good standing in
14 any United States District Court are admitted pro hac vice in this
15 litigation. Pursuant to Rule 1.4 of the Rules of Procedure of the
16 Judicial Panel on Multidistrict Litigation, association of local
17 counsel is not required.

18 **COMMUNICATIONS WITH THE COURT AND COUNSEL**

19 7. Unless otherwise ordered by the Court, all substantive
20 communications with the Court shall be e-filed.

21 8. The Court recognizes that cooperation by and among
22 plaintiffs' counsel and by and among defendants' counsel is
23 essential for the orderly and expeditious resolution of this
24 litigation. The communication of information among and between
25 plaintiffs' counsel and among and between defendants' counsel
26 shall not be deemed a waiver of the attorney-client privilege or
27 the protection afforded attorney work-product. Nothing contained

1 in this provision shall be construed to limit the rights of any
2 party or counsel to assert the attorney-client privilege or
3 attorney work-product doctrine.

4 **FILING AND SERVICE OF PAPERS AND PLEADINGS**

5 9. These cases are subject to Electronic Case Filing
6 ("ECF"), pursuant to General Order 45, Section VI, which requires
7 that all documents in such a case be filed electronically.
8 General Order, Section IV(A) provides that "[e]ach attorney of
9 record is obligated to become an ECF User and be assigned a user
10 ID and password for access to the system upon designation of the
11 action as being subject to ECF." If he or she has not already done
12 so, counsel shall register forthwith as an ECF User and be issued
13 an ECF User ID and password. Forms and instructions can be found
14 on the Court's website at
15 <https://ecf.cand.uscourts.gov/cand/index.html>. All documents can
16 be e-filed in the master file, Case No. C-07-5944 SC MDL No. 1917.

17 10. Papers that are filed electronically through the Court's
18 ECF system are deemed served on all parties as of the date of
19 filing. All other service of papers shall be governed by the
20 Federal Rules of Civil Procedure unless otherwise agreed by the
21 parties.

22 11. Permission to file briefs in excess of the page limits
23 set forth in Rule 7 of the Local Rules will not be routinely
24 granted in these cases. Stipulations allowing oversized briefs
25 will not be approved unless submitted at least five (5) court days
26 before the first brief addressed in the stipulation is due.

27 12. All parties are to make best efforts to resolve
28

1 scheduling and other procedural issues by conferring with opposing
2 counsel in the case(s) before contacting the court.

3 **EVIDENCE PRESERVATION**

4 13. All parties and their counsel are reminded of their duty
5 to preserve evidence that may be relevant to this action. The
6 duty extends to documents, data and tangible things in the
7 possession, custody and control of the parties to this action, and
8 any employees, agents, contractors, carriers, bailees, or other
9 non-parties who possess materials reasonably anticipated to be
10 subject to discovery in this action. "Documents, data, and
11 tangible things" shall be interpreted broadly to include writings,
12 records, files, correspondence, reports, memoranda, calendars,
13 diaries, minutes, electronic messages, voicemail, e-mail,
14 telephone message records or logs, computer and network activity
15 logs, hard drives, backup data, removable computer storage media
16 such as tapes, discs and cards, printouts, document image files,
17 Web pages, databases, spreadsheets, software, books, ledgers,
18 journals, orders, invoices, bills, vouchers, check statements,
19 worksheets, summaries, compilations, computations, charts,
20 diagrams, graphic presentations, drawings, films, charts, digital
21 or chemical process photographs, video, phonographic, tape or
22 digital recordings or transcripts thereof, drafts, jottings and
23 notes, studies or drafts of studies or other similar such
24 material. Information that serves to identify, locate or link
25 such material, such as file inventories, file folders, indices,
26 and metadata, is also included in this definition. Until the
27 parties reach an agreement on a preservation plan or the Court
28

1 orders otherwise, each party shall take reasonable steps to
2 preserve all documents, data, and tangible things containing
3 information potentially relevant to the subject matter of this
4 litigation. In addition, counsel shall exercise all reasonable
5 efforts to identify and notify parties and non-parties of their
6 duties, including employees of corporate or institutional parties,
7 to the extent required by the Federal Rules of Civil Procedure.

8 **PROTECTIVE ORDER**

9 14. The parties shall meet and confer regarding a protective
10 order for this proceeding. Within 30 days of the entry of an
11 Order appointing interim lead class counsel, the parties shall
12 present a stipulated protective order, or in the event a
13 stipulation cannot be reached, their respective proposals.

14 **DISCLOSURES**

15 15. Within 30 days of the entry of this Order, the parties
16 shall complete a Rule 26(f) conference and shall make initial
17 disclosures within 14 days thereafter.

18 **ALTERNATIVE DISPUTE RESOLUTION**

19 16. Within 30 days of the entry of an Order appointing
20 interim lead class counsel, the parties shall discuss the
21 selection of an alternative dispute resolution process.

22 **FURTHER CASE MANAGEMENT CONFERENCE**

23 17. The Court shall conduct a Status Conference on July 11,
24 2008 at 10:00 A.M. The parties shall electronically file a Joint
25 Case Management Statement ten (10) court days prior thereto.

26 ///

27 ///

28

1 **APPLICABILITY OF ORDER**

2 18. This Order shall apply to all actions subsequently filed
3 in, or transferred to, this district that are related to this MDL
4 proceeding. Any party objecting to the application of this Order
5 to a subsequently filed or transferred case shall file a motion
6 for relief supported by good cause within 30 days of the case
7 being added to the master docket.

8

9 DATED: April 4, 2008

10 
11

UNITED STATES DISTRICT JUDGE